HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.NO. 24888 OF 1997

Between:

B. Samson Paul

… Petitioner

and

The Managing Director, APSRTC, and others

… Respondents

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.NO.24888 OF 1997

ORAL ORDER:

Heard Sri G. Vidya Sagar, learned counsel for the petitioner. None appears for the respondents nor is there any counter affidavit filed on their behalf.

The petitioner was appointed as a Junior Clerk in the respondent-Corporation on 26.6.1979. He was issued posting orders on 27.7.1979 and joined duty on 30.7.1979. Respondents 3, 5 and 7 were issued posting orders on 12.7.1979 and joined duty on 30.7.1979. The 6th respondent joined duty on 17.9.1979 and respondents 8 and 9 joined duty on 18.9.1979 and 10.10.1979 respectively.

The petitioner's services were regularized as a Junior Assistant w.e.f. 30.7.1979, vide proceedings dated 19.11.1994. The petitioner submitted representations dated 29.11.1994 and 23.1.1995, seeking his being placed as senior to respondents 3 to 9. It is the case of the petitioner that while the 3rd respondent was promoted as a Senior Assistant in January 1990 and respondents 4, 5 and 6 were promoted

as Senior Assistants on 12.1.1995, he was not. According to the petitioner, in the seniority list dated 28.8.1996, he was shown at Serial Number 23, below the unofficial respondents.

A perusal of the order of regularization dated 19.11.1994 would show that the date, on which the petitioner joined duty, had been taken as the date of appointment. It is well settled that, the date of joining is a fortuitous circumstance and the person who resides nearer to the actual place of posting would be in a position to join duty earlier, than a person who resides far away. Sri G. Vidya Sagar has not referred to any rule, which deals with the manner in which seniority of an employee in a particular cadre is to be reckoned. It is, therefore, not known as to the basis on which the unofficial respondents were promoted as Senior Assistants while denying the same benefit to the petitioner. It is also not clear as to whether the petitioner is, in fact, senior to the unofficial respondents herein.

While Sri G. Vidya Sagar, learned counsel for the petitioner, submits that a representation had already been made on 23.1.1995, I deem it appropriate, to meet the ends of justice, to permit the petitioner to submit another copy thereof along with any further details, which he may choose to place before the 2nd respondent, within a period of 4 weeks from the date of receipt of a copy of this order. The 2nd respondent shall, within a period of three months from the date of receipt of the representation, consider the same and pass a reasoned order in accordance with law.

The writ petition is disposed of accordingly. There shall be no order as to costs.

RAMESH RANGANATHAN, J

DATE: 27.2.2007

CVM